

REMARKS

As a preliminary matter, the Patent Office is requested to update the Attorney Docket No. to read 7539.120. Thank you.

Claims 1-13 remain pending.

Claims 1 and 3-13 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,336,136 to Harris. Claim 2 has been rejected under 35 USC 103(b) as being rendered unpatentable by Harris in view of U.S. Patent No. 5,826,267 to McMillan. These rejections are respectfully traversed for the reasons given below and withdrawal of the same is respectfully requested.

Harris is not available as prior art under 102(e) because the presently claimed invention was conceived and reduced to practice prior to the December 24, 1999 filing date of Harris. Without Harris, McMillan alone cannot support the rejections.

The Declaration of Hensley and Hays submitted October 27, 2006 established that the inventors had conceived of the present invention before April 14, 2000, i.e., the filing date of Bluth. The Examiner accepted the Declaration, as evidenced by the withdrawal of Bluth.

Accompanying this response is a Declaration of Hensley and Hays dated July 12, 2007 (hereinafter "7/12/07 Declaration"). At the present time, efforts to obtain the signature of Mr. Hays have been unsuccessful. Applicant will continue to attempt to obtain Mr. Hays' signature and submit the executed Declaration at the earliest possible date.

Attached to the accompanying 7/12/07 Declaration is Exhibit A, a hardcopy print-out of the software code existing as of February 29, 2000. (7/12/07 Declaration, ¶ 4). The 7/12/07 Declaration and Exhibit A establish the inventors' efforts in reducing the invention to

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practice, as those efforts existed on February 29, 2000. A comparison of Exhibit A and the computer code as it existed on April 14, 2000 (as submitted with the October 27, 2006 Declaration) establishes the continuing diligence exercised by the inventors between February 29, 2000 and April 14, 2000. (7/12/07 Declaration, ¶ 6)

February 29, 2000 is the earliest check-in date established by the exhibits produced with earlier Declarations and Exhibit A. In actuality, development of the computer program checked-in on February 29, 2000 started much earlier than the December 24, 1999 filing date of Harris. (7/12/07 Declaration, ¶ 7) As the software was being developed, a master copy was retained on a main computer server. (7/12/07 Declaration, ¶ 8) As a routine, copies of the software code were checked out of the server to individual programmers for development. (7/12/07 Declaration, ¶ 8) The checked-out code was loaded on to individual work stations, where the development work took place and the software code was updated. (7/12/07 Declaration, ¶ 8) Periodically, the updated software code was uploaded from individual work stations to the main computer server. (7/12/07 Declaration, ¶ 8) This routine started well before December 24, 1999, and continued throughout development of the invention. (7/12/07 Declaration, ¶ 8)

Development of the software code continued diligently throughout the period of December 24, 1999 through February 29, 2000. (7/12/07 Declaration, ¶ 9) Per normal routine described above, software code updates made throughout this period were checked into the server for archive and organization purposes, and copies were routinely checked out of the server to work stations for development. (7/12/07 Declaration, ¶ 9)

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In or about January or February of 2000, the server containing the computer program code and all archived "checked-in" files crashed. (7/12/07 Declaration, ¶ 10) Extensive efforts to repair the server and recover data saved on the server were unsuccessful. (7/12/07 Declaration, ¶ 10) As a consequence, the server had to be replaced in late February of 2000. (7/12/07 Declaration, ¶ 10) All archived server records of the software code checked in during and prior to the December 24, 1999 through February 29, 2000 period were permanently and irrevocably lost because of the server crash. (7/12/07 Declaration, ¶ 10)

Fortunately, at least one copy of the most up-to-date software code as it existed and had been checked-out at the time of the server crash was saved to the individual work station computers for development purposes. (7/12/07 Declaration, ¶ 11) A copy of the software code was checked-out of the work station and checked into the replacement server on or about February 29, 2000. (7/12/07 Declaration, ¶ 11) Unfortunately, all historical, archived copies of the software code on the server at the time of the server crash, including all previous checked-in updates of the software code, were lost with the server crash. (7/12/07 Declaration, ¶ 11)

The files listed in Exhibit A were checked-into the replacement server on February 29, 2000, and are the same files that existed at the time of the server crash in or about January or February of 2000. (7/12/07 Declaration, ¶ 12) Preparation of these files loaded onto the new server had been ongoing for a period dating back almost a year before their February 29, 2000 check-in into the replacement server. (7/12/07 Declaration, ¶ 12)

Directory of C:\stephene\Patent3\Lifeclinic\LCServices\LCBroker

02/29/2000 12:35 PM

7,618 CoLCBroker.cpp

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02/29/2000 12:35 PM	2,531 CoLCBroker.h
02/29/2000 12:28 PM	4,596 Encryptor.cpp
02/29/2000 12:28 PM	982 Encryptor.h
02/29/2000 12:28 PM	1,368 errorMessage.h
02/29/2000 12:35 PM	727 idGen.h
02/29/2000 12:35 PM	12,637 ISLXmlCmdsImpl.h
02/29/2000 12:35 PM	11,816 LCBroker.cpp
02/29/2000 04:39 PM	35,554 LCBroker.dsp
02/29/2000 12:35 PM	1,137 LCBroker.idl
02/29/2000 12:35 PM	2,862 LCBroker.rc
02/29/2000 12:35 PM	853 LCBroker.rgs
02/29/2000 12:35 PM	476 LCBrokerps.mk
02/29/2000 12:28 PM	11,671 Logging.cpp
02/29/2000 12:28 PM	4,648 Logging.h
02/29/2000 12:28 PM	34,767 Registry.cpp
02/29/2000 12:28 PM	8,432 Registry.h
02/29/2000 12:28 PM	3,370 registryBase.cpp
02/29/2000 12:28 PM	815 registryBase.h
02/29/2000 12:28 PM	2,393 registryDB.cpp
02/29/2000 12:28 PM	681 registryDB.h
02/29/2000 12:35 PM	544 resource.h
02/29/2000 12:35 PM	1,582 rs.cpp

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02/29/2000 12:35 PM	315 StdAfx.cpp
02/29/2000 12:35 PM	3,474 StdAfx.h
02/29/2000 12:35 PM	5,751 xc.cpp
02/29/2000 04:39 PM	9,194 xcLCBroker.cpp
02/29/2000 12:37 PM	5,173 xcLCBroker.h
02/29/2000 12:37 PM	7,786 xcLCBrokerModify.cpp
02/29/2000 12:35 PM	21,520 xc_addInsurance.cpp
02/29/2000 12:35 PM	3,148 xc_changePassword.cpp
02/29/2000 12:35 PM	4,182 xc_createUser.cpp
02/29/2000 12:35 PM	302 xc_createUser.h
02/29/2000 12:35 PM	721 xc_delAudit.cpp
02/29/2000 12:35 PM	1,560 xc_delDiagnosis.cpp
02/29/2000 12:35 PM	1,453 xc_deleteAllergy.cpp
02/29/2000 12:35 PM	1,330 xc_DeleteCommands.h
02/29/2000 12:35 PM	2,859 xc_deleteEmploymentInfo.cpp
02/29/2000 12:35 PM	1,527 xc_deleteFamilyHistory.cpp
02/29/2000 12:35 PM	1,468 xc_deleteHealthConditions.cpp
02/29/2000 12:35 PM	1,465 xc_deleteImagingInfo.cpp
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02/29/2000 12:35 PM	1,489 xc_deleteMedications.cpp
02/29/2000 12:35 PM	1,140 xc_deletePhysical.cpp

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02/29/2000 12:35 PM	1,834 xc_deleteReminder.cpp
02/29/2000 12:35 PM	1,465 xc_deleteSurgeryInfo.cpp
02/29/2000 12:35 PM	1,465 xc_deleteTherapyInfo.cpp
02/29/2000 12:35 PM	1,382 xc_deleteUnregisteredUser.cpp
02/29/2000 12:35 PM	3,770 xc_deleteUserPhysician.cpp
02/29/2000 12:35 PM	1,261 xc_delHcpOffice.cpp
02/29/2000 12:35 PM	1,286 xc_delHcpSpecialty.cpp
02/29/2000 12:35 PM	1,959 xc_execSearch.cpp
02/29/2000 12:35 PM	234 xc_execSearch.h
02/29/2000 12:35 PM	1,090 xc_getAccountInfo.cpp
02/29/2000 12:35 PM	1,286 xc_getAddressInfo.cpp
02/29/2000 12:35 PM	1,047 xc_getAdmit.cpp
02/29/2000 12:35 PM	1,103 xc_getAllergyInfo.cpp
02/29/2000 12:35 PM	807 xc_getBeds.cpp
02/29/2000 12:35 PM	2,668 xc_getBiographicsInfo.cpp
02/29/2000 12:35 PM	2,672 xc_getBloodPressureReadings.cpp
02/29/2000 12:35 PM	1,157 xc_getCareDirectives.cpp
02/29/2000 12:35 PM	2,169 xc_getCholesterolReadings.cpp
02/29/2000 12:35 PM	2,710 xc_getCodeCats.cpp
02/29/2000 12:35 PM	249 xc_getCodeCats.h
02/29/2000 12:35 PM	3,534 xc_getCodes.cpp
02/29/2000 12:35 PM	3,998 xc_GetCommands.h

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02/29/2000 12:35 PM	835 xc_getCompany.cpp
02/29/2000 12:35 PM	1,540 xc_getConvertPc.cpp
02/29/2000 12:35 PM	1,139 xc_getCurrConvertPc.cpp
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02/29/2000 12:35 PM	1,288 xc_getCurrEncounterId.cpp
02/29/2000 12:35 PM	1,071 xc_getCurrLoa.cpp
02/29/2000 12:35 PM	1,127 xc_getCurrPreAdmit.cpp
02/29/2000 12:35 PM	1,126 xc_getCurrTransfer.cpp
02/29/2000 12:35 PM	1,286 xc_getDiagnosis.cpp
02/29/2000 12:35 PM	1,109 xc_getDisability.cpp
02/29/2000 12:35 PM	1,108 xc_getDischarge.cpp
02/29/2000 12:35 PM	1,129 xc_getDischargeHistory.cpp
02/29/2000 12:35 PM	1,414 xc_getEmploymentInfo.cpp
02/29/2000 12:35 PM	1,760 xc_getEncounterTree.cpp
02/29/2000 12:35 PM	1,111 xc_getExternalIDs.cpp
02/29/2000 12:35 PM	862 xc_getFacilities.cpp
02/29/2000 12:35 PM	1,487 xc_getFamilyHistory.cpp
02/29/2000 12:35 PM	868 xc_getFamilyTree.cpp
02/29/2000 12:35 PM	1,112 xc_getGuarantorInfo.cpp
02/29/2000 12:35 PM	1,419 xc_getHealthConditions.cpp
02/29/2000 12:35 PM	2,014 xc_getIdealBpRanges.cpp
02/29/2000 12:35 PM	1,416 xc_getImagingInfo.cpp

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02/29/2000 12:35 PM	1,469 xc_getImmunizations.cpp
02/29/2000 12:35 PM	850 xc_getInPatients.cpp
02/29/2000 12:36 PM	879 xc_getInsPlans.cpp
02/29/2000 12:36 PM	1,222 xc_getInsPlansByCompany.cpp
02/29/2000 12:36 PM	1,545 xc_getInsuranceCoverage.cpp
02/29/2000 12:36 PM	1,308 xc_getInsuranceInfo.cpp
02/29/2000 12:36 PM	933 xc_getLifeclinicStats.cpp
02/29/2000 12:36 PM	1,466 xc_getLoa.cpp
02/29/2000 12:36 PM	1,063 xc_getLoaHistory.cpp
02/29/2000 12:36 PM	1,320 xc_getMassMailing.cpp
02/29/2000 12:36 PM	1,443 xc_getMedications.cpp
02/29/2000 12:36 PM	1,076 xc_getMiscIDs.cpp
02/29/2000 12:36 PM	1,237 xc_getName.cpp
02/29/2000 12:36 PM	895 xc_getNewEncounterId.cpp
02/29/2000 12:36 PM	1,977 xc_getNewUnregUserId.cpp
02/29/2000 12:36 PM	1,716 xc_getNok.cpp
02/29/2000 12:36 PM	1,063 xc_getNokAll.cpp
02/29/2000 12:36 PM	2,513 xc_getPasswordReminder.cpp
02/29/2000 12:36 PM	1,109 xc_getPatientLocation.cpp
02/29/2000 12:36 PM	1,145 xc_getPatientStatus.cpp
02/29/2000 12:36 PM	1,154 xc_getPatientValuables.cpp
02/29/2000 12:36 PM	1,070 xc_getPerson.cpp

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02/29/2000 12:36 PM	1,241 xc_getPhone.cpp
02/29/2000 12:36 PM	1,102 xc_getPhysicalInfo.cpp
02/29/2000 12:36 PM	1,118 xc_getPhysicianInfo.cpp
02/29/2000 12:36 PM	882 xc_getPhysicians.cpp
02/29/2000 12:36 PM	807 xc_getPocs.cpp
02/29/2000 12:36 PM	1,528 xc_getPreAdmit.cpp
02/29/2000 12:36 PM	2,658 xc_getPulseReadings.cpp
02/29/2000 12:36 PM	1,293 xc_getReminder.cpp
02/29/2000 12:36 PM	816 xc_getRooms.cpp
02/29/2000 12:36 PM	1,109 xc_getSecurityInfo.cpp
02/29/2000 12:36 PM	1,231 xc_getSLMDLocations.cpp
02/29/2000 12:36 PM	1,913 xc_getStats.cpp
02/29/2000 12:36 PM	187 xc_getStats.h
02/29/2000 12:36 PM	1,416 xc_getSurgeryInfo.cpp
02/29/2000 12:36 PM	1,416 xc_getTherapyInfo.cpp
02/29/2000 12:36 PM	1,526 xc_getTransfer.cpp
02/29/2000 12:36 PM	1,346 xc_getUserBiographics.cpp
02/29/2000 12:36 PM	7,116 xc_getUserInsurance.cpp
02/29/2000 12:36 PM	4,773 xc_getUserPhysicians.cpp
02/29/2000 12:36 PM	1,398 xc_getUserPreference.cpp
02/29/2000 12:36 PM	2,657 xc_getWeightReadings.cpp
02/29/2000 12:36 PM	449 xc_insCodeCategory.cpp

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02/29/2000 12:36 PM	448 xc_insCpiMaster.cpp
02/29/2000 12:36 PM	429 xc_insCpiUser.cpp
02/29/2000 12:36 PM	435 xc_insDiagnosis.cpp
02/29/2000 12:36 PM	444 xc_insEncounter.cpp
02/29/2000 12:36 PM	453 xc_insEncounterLog.cpp
02/29/2000 12:36 PM	445 xc_insEncounterMap.cpp
02/29/2000 12:36 PM	947 xc_InsertCommands.h
02/29/2000 12:36 PM	444 xc_insExternalCode.cpp
02/29/2000 12:36 PM	451 xc_insInternalCode.cpp
02/29/2000 12:36 PM	435 xc_insSysOrg.cpp
02/29/2000 12:36 PM	6,245 xc_loginUser.cpp
02/29/2000 12:36 PM	276 xc_loginUser.h
02/29/2000 12:36 PM	1,168 xc_openDatabase.cpp
02/29/2000 12:36 PM	203 xc_openDatabase.h
02/29/2000 04:39 PM	634 xc_OtherCommands.h
02/29/2000 12:36 PM	5,815 xc_setAllergyInfo.cpp
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02/29/2000 12:36 PM	1,518 xc_setFamilyHistory.cpp
02/29/2000 12:36 PM	1,488 xc_setHealthConditions.cpp

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02/29/2000 12:36 PM	1,679 xc_setImagingInfo.cpp
02/29/2000 12:36 PM	1,523 xc_setImmunizations.cpp
02/29/2000 12:36 PM	31,186 xc_setInsurance.cpp
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02/29/2000 12:36 PM	3,743 xc_setSLMDLocations.cpp
02/29/2000 12:36 PM	1,477 xc_setSurgeryInfo.cpp
02/29/2000 12:36 PM	1,679 xc_setTherapyInfo.cpp
02/29/2000 12:36 PM	3,554 xc_setUnregisteredUser.cpp
02/29/2000 12:36 PM	4,930 xc_setUserBiographics.cpp
02/29/2000 12:36 PM	19,645 xc_setUserPhysicians.cpp
02/29/2000 12:36 PM	1,287 xc_setUserPreference.cpp
02/29/2000 12:36 PM	1,812 xc_UpdateCommands.h
02/29/2000 12:36 PM	439 xc_uptAddressInfo.cpp
02/29/2000 12:36 PM	417 xc_uptAdmit.cpp
02/29/2000 12:36 PM	2,054 xc_uptBiographics.cpp
02/29/2000 12:36 PM	499 xc_uptCareDirectives.cpp
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02/29/2000 12:36 PM	447 xc_uptConvertPc.cpp
02/29/2000 12:36 PM	445 xc_uptDiagnosis.cpp
02/29/2000 12:36 PM	445 xc_uptDischarge.cpp
02/29/2000 12:36 PM	449 xc_uptEmployment.cpp

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02/29/2000 12:36 PM	501 xc_uptEncounter.cpp
02/29/2000 12:36 PM	439 xc_uptEncounterHcp.cpp
02/29/2000 12:36 PM	542 xc_uptEncounterLog.cpp
02/29/2000 12:36 PM	462 xc_uptExternalCode.cpp
02/29/2000 12:36 PM	448 xc_uptFacility.cpp
02/29/2000 12:36 PM	448 xc_uptGuarantor.cpp
02/29/2000 12:36 PM	424 xc_uptIdMap.cpp
02/29/2000 12:36 PM	448 xc_uptInsurance.cpp
02/29/2000 12:36 PM	476 xc_uptInsurancePlan.cpp
02/29/2000 12:36 PM	406 xc_uptLoa.cpp
02/29/2000 12:37 PM	433 xc_uptMiscIds.cpp
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02/29/2000 12:37 PM	441 xc_uptPhysical.cpp
02/29/2000 12:37 PM	446 xc_uptPreAdmit.cpp
02/29/2000 12:37 PM	441 xc_uptTransfer.cpp
02/29/2000 12:37 PM	9,925 xmlCommand.cpp
02/29/2000 12:37 PM	3,212 xmlCommand.h
02/29/2000 12:31 PM	7,975 xmlParser.cpp

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02/29/2000 12:31 PM 6,106 xmlParser.h

Directory of C:\stephene\Patent3\Lifeclinic\LCServices\LCKioskClient

02/29/2000 03:23 PM 6,558 dialer.cpp
02/29/2000 03:23 PM 1,008 dialer.h
02/29/2000 12:28 PM 4,596 Encryptor.cpp
02/29/2000 12:28 PM 982 Encryptor.h
02/29/2000 12:28 PM 4,224 filenameDelimited.cpp
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02/29/2000 03:23 PM 18,376 LCKioskClient.aps
02/29/2000 03:23 PM 810 LCKioskClient.clw
02/29/2000 03:23 PM 12,691 LCKioskClient.cpp
02/29/2000 03:23 PM 6,452 LCKioskClient.dsp
02/29/2000 03:23 PM 1,350 LCKioskClient.h
02/29/2000 03:23 PM 439 LCKioskClient.idl
02/29/2000 03:23 PM 2,584 LCKioskClient.rc
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02/29/2000 03:23 PM 255 LCKioskClienttps.def
02/29/2000 03:23 PM 526 LCKioskClienttps.mk
02/29/2000 12:28 PM 11,671 Logging.cpp
02/29/2000 12:28 PM 4,648 Logging.h
02/29/2000 12:28 PM 34,767 Registry.cpp

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02/29/2000 12:28 PM	8,432 Registry.h
02/29/2000 12:28 PM	3,370 registryBase.cpp
02/29/2000 12:28 PM	815 registryBase.h
02/29/2000 03:23 PM	475 Resource.h
02/29/2000 03:23 PM	315 StdAfx.cpp
02/29/2000 03:23 PM	3,144 StdAfx.h
02/29/2000 03:23 PM	663 threadMain.cpp
02/29/2000 03:23 PM	264 threadMain.h
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02/29/2000 03:23 PM	1,539 threadMonitor.h
02/29/2000 03:23 PM	1,110 wndMonitor.cpp
02/29/2000 03:23 PM	1,352 wndMonitor.h
02/29/2000 03:23 PM	17,873 wndMonitorISP.cpp
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02/29/2000 03:23 PM	1,113 zipUtil.cpp
02/29/2000 03:23 PM	504 zipUtil.h

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02/29/2000 03:24 PM	18,368 LCKioskServer.aps
02/29/2000 03:24 PM	837 LCKioskServer.clw
02/29/2000 03:24 PM	12,182 LCKioskServer.cpp
02/29/2000 03:24 PM	439 LCKioskServer.idl
02/29/2000 03:24 PM	2,584 LCKioskServer.rc
02/29/2000 03:24 PM	189 LCKioskServer.rgs
02/29/2000 03:24 PM	255 LCKioskServerps.def
02/29/2000 03:24 PM	526 LCKioskServerps.mk
02/29/2000 12:28 PM	11,671 Logging.cpp
02/29/2000 12:28 PM	4,648 Logging.h
02/29/2000 12:28 PM	34,767 Registry.cpp
02/29/2000 12:28 PM	8,432 Registry.h
02/29/2000 12:28 PM	3,370 registryBase.cpp
02/29/2000 12:28 PM	815 registryBase.h
02/29/2000 03:24 PM	475 Resource.h
02/29/2000 03:24 PM	315 StdAfx.cpp
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02/29/2000 03:24 PM	1,320 threadMain.cpp
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02/29/2000 03:24 PM	1,509 threadProcessor.h
02/29/2000 03:24 PM	1,400 threadReceiver.cpp

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02/29/2000 03:24 PM 1,492 threadReceiver.h

02/29/2000 03:24 PM 2,123 threadServer.cpp

02/29/2000 03:24 PM 1,750 threadServer.h

The development of the computer files attached as Exhibit A unquestionably began well before December 24, 1999, and continued diligently through February 29, 2000.

(Declaration, ¶ 14) Given the detail and extensive volume of the computer code as it existed in January or February of 2000, i.e., at the time of the server crash, it is manifestly evident that creation of the code must have and did date back several months, well before the December 24, 1999 filing date of Harris. (Declaration, ¶ 14) According, conception and development of the invention predates the December 24, 1999 of Harris. (Declaration, ¶ 14)

Numbered paragraphs 15-29 of the accompanying Declaration and the attached Exhibits B, C, and D provide still further evidence that the invention was conceived of and either reduced to practice or was in the process of being reduced to practice before December 24, 1999.

For these reasons, Applicant respectfully requests reconsideration and withdrawal of the Section 102(e) and 103(a) rejections.

In view of the foregoing remarks, the present application is now believed to be in condition for allowance. The Examiner is asked to consider this response and pass the application to allowance.

Further and favorable consideration is requested.

Applicants have filed a petition for extension of time and a three-month petition fee herewith. In the event that the petition is missing or the three-month petition fee is missing or

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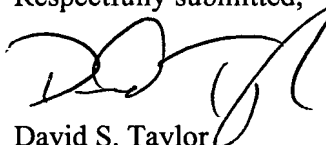
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deficient, the Patent Office is requested to accept this paper as a petition for an extension of time and is authorized to charge any inadequacy to Deposit Account No. 50-0548.

Should the Examiner have any questions, he is requested to contact the undersigned.

Respectfully submitted,



David S. Taylor

Registration No. 39,045

Date: July 12, 2007

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